

**Written Testimony for "Empowering Local Law Enforcement to Combat Illegal Immigration" Hearing, Gastonia, N.C., August 25, 2006.**

I am Michael Lands, the elected District Attorney for Gaston County, which is a position I have held for sixteen years. As District Attorney, I supervise the office that is responsible for prosecuting all the criminal charges in Gaston County. Thank you for the invitation to address this Subcommittee about local law enforcement and illegal immigration.

At the beginning, I want to make clear that I do not want and do not intend for any of my comments to suggest that only illegal immigrants commit crimes or fail to cooperate with police and prosecutors. There are certainly too many American - born citizens who commit crimes or fail to cooperate with police and prosecutors. Illegal immigration just presents different issues for law enforcement, with a major difference being the fact that the person is breaking the law simply by being here.

What are some of the issues and problems illegal immigrants charged with criminal offenses cause the court system? One area is identity. Is the person arrested who he said he is? Without proper identification and birth dates, it is hard to know a defendant's true identity. Jails are not big enough to hold all immigrants arrested without valid identification. Then there are numerous cases where an arrestee uses another person's name, then does not appear in court. The warrants for arrest issued for the failure to appear go out in the wrong name, with little chance of arresting the true offender, since the State does not know the true name of the offender. Another identity issue is the fact that many illegal immigrants have several last names or hyphenated names that make it difficult to run record checks to see if the immigrant has a prior criminal record. A final identity issue occurs because illegal immigrants move around so often it is difficult to know if a conviction in one state is for the same defendant charged in this state.

A different issue is the fact that some illegal immigrants become involved in criminal activity because they "owe" the individuals who helped them enter the country. Often, this means the illegal transports illegal drugs. If they are arrested for possession of the drugs, they do not identify the drug suppliers to police. This is often because the true drug traffickers threaten harm to their family members back in their home country.

Next, increased illegal immigrants have impacted economically on the court system. Increased numbers of illegals in jail lead to overcrowding. Large numbers of immigrants arrested for criminal offenses qualify as indigent and receive attorneys paid for by the State. Then add the expense of translators for court. Several years ago the North Carolina Administrative Office of the Courts imposed a hiring freeze of up to four months when court personnel left their jobs. I was told later a large portion of the lapsed salaries was used to fund translators for court hearings, because not enough money had been budgeted for the increased demand. So for that time period, District Attorney Offices could not hire prosecutors so the court system could pay for translators, for criminal defendants who could not speak English.

Another issue is a psychological issue, particularly when dealing with drunk driving deaths. All drunk driving deaths could be avoided if there was no alcohol consumption by the driver. When an American born drunk driver kills someone in a crash, the public feels the death could have been avoided. I believe the public has greater outrage when an illegal immigrant drunk driver kills, because people believe the death would have

been avoided. If the illegal immigrant was not in the country, then he would not have drank and driven and killed in this country.

The final issue is the problem of the illegal victim of crime. They are targeted by criminals who know the illegal immigrant will not report the crime to the police. If a criminal is actually charged for a crime against an illegal, the immigrant simply will not cooperate with police or prosecutors, often move away, or do not appear in court. All of these actions allow criminals to go free and waste valuable court resources. Most of this non-cooperation can be traced to a fear of deportation and a cultural distrust of police.

Those are some of the issues local law enforcement face when dealing with illegal immigrants committing crimes. The letter sent to me inviting me to testify here said this hearing was "to explore how the Federal government can partner with local enforcement in dealing with the problems of criminal aliens, specifically through the application of 287 (g) training." On the issue of 287(g) training, it certainly would help local law enforcement to be able to determine who was an illegal immigrant and be able to start the process of deportation. It would be a great help to local law enforcement to be able to get a known immigrant criminal out of the community without having to wait for an over-worked ICE agent to begin the process. As long as the Federal Government does not make the 287(g) authority an unfunded mandate for local law enforcement agencies, then I believe more and more local agencies may seek to have their officers trained. North Carolina needs an immigration court here to be able to timely and effectively have deportation hearings for illegal immigrants found in North Carolina.

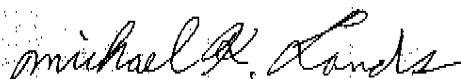
But ultimately there needs to be more done. As I have thought about this issue this week, I have come to the conclusion, and I mean this with no disrespect, that the Federal Government has to be reminded that illegal immigration is a Federal Government problem and the Federal Government is not addressing the problem. 287(g) authority for local law enforcement officers is a means to allow local law enforcement officers to do Federal law enforcement officers' jobs. Why is 287(g) authority needed? Because the Federal Government has not employed enough ICE agents to do the job. I talked with a local officer this week who praised their relationship with our local ICE agents, but stated he felt bad to contact them to work on a case because it would mean the ICE agents would have to stop working on the 10 other cases they were working on at the time, between here and Asheville.

Until the Federal Government gives local law enforcement the authority to load vans and drive illegal aliens to the border, then this is a Federal Government problem that has to have a Federal Government solution. What is the Federal Government's immigration policy? I suggest that illegal aliens can be divided into five groups as they relate to the criminal justice system. Group One are the illegal immigrants who commit serious felonies under state law. Federal agents have been cooperative in trying to get these illegals deported. Group Two are the illegals who commit crimes (mostly Driving While Impaired) that the Federal agents have not made a deportable offense because of lack of resources, that the State wants deported. They should be deported and they need to be deported. Group Three are illegals who commit a minor infraction of the law (traffic offenses) and come to the attention of law enforcement. Group Four would be illegals who have been the victim of a crime and come to the attention of law enforcement. Group Five are the illegals, who have committed no state law crime and are unknown to local law enforcement. Each and every illegal in each of these five groups can be deported for

breaking federal law for being in this country illegally. But the Federal Government decides who to deport based on what state law violation has been committed. The push is being made for the Federal Government to consider Driving While Impaired cases as serious (they are), because the Federal Government has not decided that the act of being here is serious. What is the Federal Government going to communicate as its policy to the officers receiving 287(g) training in dealing with illegal immigrants in each of the above five groups? Are all equally deportable if found by local law enforcement officers with 287(g) training and authority?

Finally, it strikes me as strange that we are discussing equipping local law enforcement with authority to help in the deportation process and discussing how to make Driving while Impaired offenses deportable, as if deportation was some great cure for the problem. The Government goes through all the expense and work to send an illegal back to their home country, just to have the illegal come back into the United States in a matter of weeks. When will the Federal Government give serious prison sentences to illegals who come back to the country after deportation? Will the Federal Government commit the resources to imprison these offenders or will the Government just start the deportation revolving door process over again?

The 287(g) training for local law enforcement will definitely help them help the Federal Government detect illegal immigrants. Ultimately, what will the Federal Government do about illegal immigrants?



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**Employment:**  
**1991 – Present**

District Attorney, Gaston County  
Supervise an office of 13 attorneys and 13 support staff positions to prosecute all the criminal offenses charged in Gaston County.  
Personally prosecuted criminal cases in Superior and District Courts.

**1984 – 1990**

Assistant Public Defender, Gaston County  
Provide legal counsel to indigent defendants charged with criminal offenses. Personally defended criminal cases in Superior, District, and Juvenile Courts.

**Education:**  
**1981-1984**

University of North Carolina School of Law  
Juris Doctor

**1977-1981**

Wake Forest University  
Bachelor of Arts – Politics  
Cum Laude Graduate

**Personal:**

Member – N.C. Conference of District Attorneys  
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Member – Gaston Community Child Protection Team  
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Member - Multi – Disciplinary Task Force  
Board Member – Mediation Center of The Southern Piedmont  
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